

ORIGINAL

AO 91 (Rev. 11/11) Criminal Complaint

U.S. DISTRICT COURT - N.D. OF N.Y.  
FILED  
JAN 26 2021  
AT \_\_\_\_ O'CLOCK  
John M. Domurad, Clerk - Albany

UNITED STATES DISTRICT COURT  
for the  
Northern District of New York

UNITED STATES OF AMERICA )

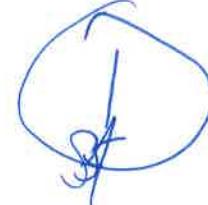
v. )

Case No. 1:21-MJ- 48 (CFH)

SEAN M. ANDRE, )

)

Defendant. )



## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the dates of June 24, 2020 through and including August 13, 2020, in the county of Ulster in the Northern District of New York, and elsewhere, the defendant violated:

*Code Section*  
18 U.S.C. §§ 1344, 1349;  
18 U.S.C. §§ 1343, 1349; and  
18 U.S.C. § 1957(a)

*Offense Description*  
Conspiracy to commit bank fraud;  
Conspiracy to commit wire fraud; and  
Engaging in transfers of wire fraud and bank fraud proceeds of a  
value greater than \$10,000

This criminal complaint is based on these facts:

Please see attached affidavit.

Continued on the attached sheet.



FBI Special Agent Matthew J. Wabby

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: January 26, 2021



Judge's signature

City and State: Albany, NY

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

**Affidavit in Support of a Criminal Complaint**

Special Agent Matthew J. Wabby, of the Federal Bureau of Investigation (FBI), deposes and states as follows:

**Introduction**

1. I respectfully submit this affidavit in support of a criminal complaint charging SEAN M. ANDRE (“ANDRE”) with conspiring to commit bank fraud, in violation of 18 U.S.C. §§ 1344, 1349; conspiring to commit wire fraud, in violation of 18 U.S.C. §§ 1343, 1349; and engaging in transfers of wire fraud and bank fraud proceeds of a value greater than \$10,000, in violation of 18 U.S.C. § 1957(a).

2. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed since September 2012. In June 2019, I was assigned to the FBI Albany Field Office’s White Collar Squad, investigating corruption, fraud, money laundering, and related crimes. I am also part of the COVID-19 Fraud Response Working Group.

3. Prior to becoming a Special Agent, I worked in public accounting for approximately seven (7) years, where I became a Certified Public Accountant (CPA). I am still a licensed CPA and also a Certified Fraud Examiner (CFE).

4. I am familiar with the facts of this case based on my personal involvement in this investigation and my conversations with law enforcement officers and agencies, my review of various reports and documents in connection with the matter, and my interviews of witnesses. Where statements of others are related in this affidavit, they are related in substance and in part. Because this affidavit is submitted for the limited purpose of showing probable cause for a complaint, I have not set forth every fact that I know concerning this investigation.

**Basis for a Finding of Probable Cause**

5. ANDRE conspired with Jean R. Lavanture a/k/a Rudy Lavanture ("Lavanture") to fraudulently obtain millions of dollars in Paycheck Protection Program ("PPP") loans. As set forth in more detail below:

- a. ANDRE conspired with Lavanture to commit bank fraud, with respect to PPP loan applications submitted to Bank of America in the names of Intrust Investment Realty LLC and Provident Investment Realty LLC, entities that Lavanture controls.
- b. ANDRE also conspired with Lavanture to commit wire fraud with respect to a PPP loan application submitted to Kabbage, Inc. in the name of Project Youth Exposure Inc., another entity Lavanture controls.
- c. ANDRE engaged in transfers of wire fraud and bank fraud proceeds of a value greater than \$10,000, by receiving from Lavanture at least \$157,578 in fraud proceeds that represented ANDRE's fee for helping Lavanture commit the fraud.

6. Lavanture, age 48, and a resident of Saugerties, New York, has been indicted in this Court on three (3) counts of bank fraud for his role in the PPP scheme.

7. ANDRE, age 30, and a resident of Brooklyn, New York, and Irvington, New Jersey, is a Special Inspector for the Metropolitan Transportation Authority - New York City Transit Authority.

8. *Overview of the PPP loan program.*<sup>1</sup> The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a federal law enacted in March 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects of the

---

<sup>1</sup> This is a summary of the PPP rules that existed at the time of ANDRE's crimes.

COVID-19 pandemic. The CARES Act authorized forgivable loans to small businesses for job/employee retention and certain other expenses, through the PPP.

9. PPP loan proceeds must be used by the borrowing business only on certain, permissible expenses – specifically, payroll costs, interest on mortgages, rent, and utilities. Payroll costs are capped at \$100,000 on an annualized basis for each employee. The PPP allows the interest and principal on the loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds, and uses a certain amount of the PPP loan proceeds on payroll expenses.

10. To obtain a PPP loan, a qualifying business must submit an online loan application, which is signed by an authorized representative of the business. A PPP loan application is submitted to and processed by a participating lender (e.g., a bank). If a loan application is approved, the participating lender funds the loan using its own monies, which are, in turn, fully guaranteed by the U.S. Small Business Administration (SBA), a federal agency. Among other things, the borrowing business (through its authorized representative) must certify on its loan application that it was in operation as of February 15, 2020, and that it paid employees or independent contractors as of that date. To calculate the amount of money the business is eligible to receive, the business must certify on its loan application, among other things, its average monthly payroll expenses and number of employees. In addition, businesses applying for a PPP loan must provide documentation of their payroll expenses. Permissible forms of documentation include U.S. Corporation Income Tax Returns (IRS Forms 1120), Employer's Quarterly Federal Tax Returns (IRS Forms 941), Employer's Annual Federal Unemployment Tax Returns (IRS Forms 940), and Wage and Tax Statements (IRS Forms W-3). The person submitting a PPP application must “certify that the information provided in this application and the information

provided in all supporting documents and forms is true and accurate in all material respects.” They must further certify that they “understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law,” including by criminal penalty.

11. An applicant for a PPP loan must also provide a lender with the information needed to deposit loaned funds into an applicant’s bank account. An applicant must provide the company’s bank account and routing information.

12. ***Background on the Lavanture Entities.*** Lavanture controls the following entities that received PPP loans: Dreamcast Entertainment LLC (“Dreamcast”), Intrust Investment Realty LLC (“Intrust”), Project Youth Exposure Inc. (“Project Youth”), and Provident Investment Realty LLC (“Provident”) (collectively, the “Lavanture Entities”).<sup>2</sup>

13. The New York State Department of Labor (“NYDOL”) has disclosed that none of the Lavanture Entities has ever reported having employees or a payroll. The Internal Revenue Service (IRS) has disclosed that from 2017 through 2019, none of the Lavanture Entities filed a federal income tax return, nor made any filings with the IRS indicating that any of the entities had employees or contractors during these years.

14. ***Fraudulent loan applications.*** Between on or about June 24, 2020 and July 22, 2020, the Lavanture Entities received a total of four (4) PPP loans – three (3) from Bank of America, N.A. (“BoA”) and one (1) from Kabbage, Inc. (“Kabbage”). BoA, based in Charlotte, North Carolina, is a financial institution insured by the Federal Deposit Insurance Corporation. Kabbage, based in Atlanta, Georgia, is an online lender and also originated PPP loans for other lenders.

---

<sup>2</sup> Lavanture also applied for and received Economic Injury Disaster Loans on behalf of these entities and one other company. These loans, provided by the SBA, are not discussed in this affidavit.

15. Lavanture was the sole signatory on all of the PPP loan applications, each of which contained materially false representations regarding, among other things, the applicant company's number of employees and payroll. The following are examples of these materially false representations, made in online applications submitted to the lenders via the Internet:

- a. An application to Kabbage, for a PPP loan in the amount of \$1,309,897.00, included a 2019 Wage and Tax Statement (Form W-3) that purported to document 61 employees, and total paid wages in the amount of \$6,099,756.00, for Provident in 2019. Based on my training, experience, and investigation to date, there is probable cause to conclude that this document, and the representations contained therein, were materially false and fraudulent, because the IRS has disclosed that Provident did not have tax filings in 2019, and NYDOL has disclosed that Provident has never reported having any employees. For these reasons, there is also probable cause to conclude that Lavanture, on the PPP loan application for Provident, falsely certified that Provident was "in operation on February 15, 2020 and had employees for whom it paid salaries and payroll or paid independent contractors." On or about July 22, 2020, Provident's BoA account, with account number ending in 0970, received a \$1,309,897.00 deposit from Kabbage, described as "PPP Funding."
- b. An application to BoA, for a PPP loan in the amount of \$1,354,112.00, included a 2019 Employer's Annual Federal Unemployment Tax Return (Form 940), and a 1st-Quarter 2020 Employer's Quarterly Federal Tax Return (Form 941), that purported to document \$6,499,740 in total paid wages in 2019, and \$1,624,935 in total paid wages to 65 employees in the first quarter of 2020, for Intrust. Based on my training, experience and investigation to date, there is probable cause to

conclude that these documents, and the representations contained therein, were materially false and fraudulent, because the IRS has disclosed that Intrust did not have tax filings in 2019, and NYDOL has disclosed that Intrust has never reported having any employees. For these reasons, there is also probable cause to conclude that Lavanture, on the PPP loan application for Intrust, falsely certified that Intrust was “in operation on February 15, 2020 and had employees for whom it paid salaries and payroll or paid independent contractors.” On or about July 13, 2020, Intrust’s BoA account, with account number ending in 8647, received a \$1,354,112.00 deposit from BoA, described as “CARES ACT PAYCHECK PROTECTION PROGRAM DEPOSIT.”

- c. An application to BoA, for a PPP loan in the amount of \$1,520,772.00, included a 2019 Wage and Tax Statement (Form W-3), and 2019 Employer’s Annual Federal Unemployment Tax Return (Form 940), that purported to document 73 employees and total paid wages in the amount of \$7,299,708.00 for Project Youth in 2019. The application claimed an average monthly payroll of \$608,309. The application also included a 1st-Quarter 2020 Employer’s Quarterly Federal Tax Return (Form 941), purporting to document \$1,749,930.00 in total paid wages to 70 employees in the first quarter of 2020. Based on my training, experience and investigation to date, there is probable cause to conclude that these documents, and the representations contained therein, were materially false and fraudulent, because the IRS has disclosed that Project Youth did not have tax filings in 2019, and NYDOL has disclosed that Project Youth has never reported having any employees. For these reasons, there is also probable cause to conclude that Lavanture, on the PPP

loan application for Project Youth, falsely certified that Project Youth was “in operation on February 15, 2020 and had employees for whom it paid salaries and payroll or paid independent contractors.” On or about July 15, 2020, Project Youth’s BoA account, with account number ending in 5527, received a \$1,520,772.00 deposit from BoA, described as “CARES ACT PAYCHECK PROTECTION PROGRAM DEPOSIT.”

16. On September 17, 2020, FBI agents and other law enforcement officers arrested Lavanture at a New Jersey mansion and estate that he purchased with proceeds from the fraud. That same day, the FBI and other law enforcement officers also searched, pursuant to a warrant issued by this Court, the Saugerties, New York, residential property where the Lavanture Entities were purportedly based, and found no evidence of any business actually being operated from there.

17. *ANDRE’s role in the fraudulent scheme.* I have reviewed communications between ANDRE and Lavanture, including emails exchanged between them that were stored on Google servers and obtained by search warrant, and communications located on Lavanture’s phone, which the FBI seized at Lavanture’s mansion and estate on September 17 and later searched, pursuant to a warrant. These communications demonstrate that ANDRE worked with Lavanture to obtain the PPP loans described above, and that ANDRE knowingly submitted, and helped Lavanture submit, fraudulent documents to BoA and Kabbage.

18. On October 15, 2020, I obtained a search warrant issued by this Court for several Google Mail accounts known to have been used by ANDRE, including seanmandre[@]gmail.com and smel.realty[@]gmail.com. In these email accounts used by

ANDRE, I found copies of documents that were actually submitted to BoA and Kabbage as part of the fraudulent loan applications for the Lavanture Entities. These documents included:

- a. A July 8, 2020 email from ANDRE to Lavanture, titled “fw3 2019 PIR LLC,” attaching a 2019 Wage and Tax Statement (Form W-3), which Kabbage actually received as part of the Provident loan application.
- b. A July 9, 2020 email from Lavanture to ANDRE, titled “incorrect 941/940,” attaching a 2019 Employer’s Annual Federal Unemployment Tax Return (Form 940), as well as a 1st-Quarter 2020 Employer’s Quarterly Federal Tax Return (Form 941), both of which BOA actually received as part of the Project Youth loan application.

19. According to an analysis of Lavanture’s phone, ANDRE and Lavanture exchanged the following WhatsApp messages<sup>3</sup>, which I believe relate to the PPP loan applications for Provident and Intrust:

Date / Approx. Time	Sender	Message <sup>4</sup>
7/8/2020 8:06 AM	Lavanture	Bro, can we knock out the other 2 so my mind can be at ease. You have access to the intrustinvestmentgroup@gmail.com... So far no
7/8/2020 8:09 AM	ANDRE	Bro. Calm it down. I'll get them asap. Dont stress me please

<sup>3</sup> WhatsApp is a phone messaging application. ANDRE was using a WhatsApp account associated with the phone number (347) 571-3006. According to T-Mobile, this phone number was subscribed to ANDRE from February 11, 2017 through October 8, 2020. Additionally, I have seen this phone number listed as ANDRE’s on numerous documents, including a work resume for ANDRE stored within one of his Google Mail accounts.

<sup>4</sup> Ellipses indicate a place where I have omitted one or more messages between ANDRE and Lavanture, in the interest of brevity. I have also made limited redactions to protect confidential banking information. Complete and unredacted transcripts of ANDRE and Lavanture’s communications are available for review upon the Court’s request. Finally, in brackets, I have provided my interpretation of a few common abbreviations used by ANDRE and Lavanture, as well as a few words that I believe ANDRE or Lavanture misspelled.

Date / Approx. Time	Sender	Message <sup>4</sup>
7/8/2020 8:27 AM	ANDRE	Provident: -Need bank log in info -routing -account -Voided check
7/8/2020 8:29 AM	Lavanture	Boa [Account number partially redacted] 0970 Routine [routing] 021000322
7/8/2020 8:30 AM	Lavanture	Boa log in [Redacted]  Pwd [password] [Redacted]
7/8/2020 8:31 AM	ANDRE	Email and pw [password]
7/8/2020 8:31AM	Lavanture	providentinvestment@gmail.com
7/8/2020 8:32 AM	Lavanture	Let me check. I think it's [Redacted] or [Redacted]
...	...	...
7/8/2020 9:41 AM	ANDRE	Intrust already completed.
7/8/2020 9:43 AM	Lavanture	Let's knock them out 1,2,3 so we can all celebrate together
...	...	...
7/9/2020 1:28 PM	Lavanture	Kabbage sent you your bread yet sir? Are we done with boa? Wondering why they not asking intrust Investment anything?????
7/9/2020 1:30 PM	ANDRE	I was about to ask you the same thing bro
7/9/2020 1:30 PM	ANDRE	We left in limbo
7/9/2020 1:30 PM	ANDRE	Smfh [shaking my f***** head]
7/9/2020 1:31 PM	Lavanture	We have to keep resubmitting... That's the key
7/9/2020 1:32 PM	ANDRE	Yup. Meed [Need] another place. BOA should be good
7/9/2020 1:33 PM	Lavanture	Ok.. getting now
7/9/2020 1:36 PM	ANDRE	BOA is bull shitting requiring additional documentation when it states they only need 1!!
7/9/2020 1:36 PM	ANDRE	Same ahit [sh*t] they did before
...	...	...
7/9/2020 1:40 PM	Lavanture	U are familiar with BOA.. u got this
7/9/2020 1:42 PM	ANDRE	I'm going to send the w3 they want and a payroll just incase....

Date / Approx. Time	Sender	Message <sup>4</sup>
7/9/2020 1:43 PM	ANDRE	Cross T's Dot I's
7/9/2020 1:43 PM	Lavanture	Crossing

Based on my training and experience, and investigation to date, I believe these messages demonstrate that ANDRE and Lavanture worked together to submit the fraudulent PPP loan applications for Provident and Intrust, respectively. The excerpted conversation starts out on July 8 at approximately 8:06 a.m., with Lavanture asking ANDRE to “knock out the other 2,” which I believe is a reference to completing two (2) PPP loan applications, on behalf of Provident and Intrust, respectively. ANDRE responds “I’ll get them asap,” meaning he will complete the applications as soon as possible, and asks Lavanture for certain information. Lavanture provides ANDRE with the information for Provident’s bank account that ended up receiving loan proceeds. He also provides ANDRE with the email addresses (intrustinvestmentgroup@gmail.com and providentinvestment@gmail.com) that were associated with loan applications submitted for Intrust and Provident, respectively. By July 8 at approximately 9:41 a.m., ANDRE tells Lavanture that “Intrust already completed,” which I believe refers to ANDRE’s having completed the PPP loan application for Intrust. On July 9 at approximately 1:28 p.m., Lavanture asks ANDRE “Are we done with boa? Wondering why they not asking intrust Investment anything?????” which I believe is a reference to the status of the loan application for Intrust. At approximately 1:36 p.m., ANDRE tells Lavanture that “BOA is … requiring additional documentation …” which I believe refers to BoA requiring additional documents for the loan application for Intrust. Later in the conversation Lavanture responds, “U are familiar with BOA.. u got this,” and ANDRE replies that “I’m going to send the w3 they want and a payroll just incase....” meaning that ANDRE was going to submit additional documents to BoA.

20. According to an analysis of Lavanture's phone, ANDRE and Lavanture exchanged the following WhatsApp messages, which I believe relate to the PPP loan application for Project Youth:

Date / Approx. Time	Sender	Message
7/7/2020 6:28 AM	Lavanture	Project Youth exposure Inc is allowing me... Figures have to update
7/7/2020 6:32 AM	ANDRE	How much are you aiming for??
7/7/2020 6:33 AM	ANDRE	Things may be a little different due to us being in the second qrter [quarter] of the tax year
7/7/2020 6:33 AM	Lavanture	The sky. 1.5
...	...	...
7/7/2020 7:42 AM	ANDRE	For 1.5 you have 73 employees
7/7/2020 7:43 AM	ANDRE	Monthly payroll 608,309
7/7/2020 7:47 AM	Lavanture	On it...
7/7/2020 7:48 AM	Lavanture	Doing it now.
7/7/2020 7:51 AM	ANDRE	I created a calculator in xl for this shit and it's fucking great lol
7/7/2020 7:51 AM	Lavanture	What's the # for 2.5 x
7/7/2020 7:51 AM	Lavanture	Lol nice
7/7/2020 7:52 AM	ANDRE	If yoy monthly is 608.... then multiply that by 2.5
7/7/2020 7:53 AM	ANDRE	I'm in the front of the van
7/7/2020 7:53 AM	ANDRE	No numbers talk up here
7/7/2020 7:53 AM	Lavanture	Fucking paranoid but kopy
7/7/2020 7:54 AM	ANDRE	I don't no one in my business talking about million dollar deals
7/7/2020 8:04 AM	Lavanture	Phaccenter@gmail.com pwd [redacted] for project youth exposure, Inc
...	...	...
7/7/2020 8:18 AM	ANDRE	If they allowing toy to tell numbers you fine
7/7/2020 8:18 AM	Lavanture	WTF. Lol. What does that mean... Lol..
7/7/2020 8:19 AM	ANDRE	Uf [If] they are letting fill in monthly payroll then you are good
...	...	...
7/7/2020 8:21 AM	Lavanture	Did you just submitted or u did it last night?

Date / Approx. Time	Sender	Message
7/7/2020 8:24 AM	ANDRE	I just did it
7/7/2020 8:25 AM	ANDRE	Once you log in then that's it
...	...	...
7/8/2020 11:42 AM	Lavanture	Nigga, I was on the phone for you
7/8/2020 11:42 AM	ANDRE	And I'm on the computer for you
7/8/2020 11:42 AM	ANDRE	Multitask
7/8/2020 11:43 AM	ANDRE	At work
7/8/2020 11:45 AM	Lavanture	Damn bro... Ok cool. 3 business days...  Can we at least knock out project Youth exposure Inc
...	...	...
7/8/2020 6:26 PM	ANDRE	All completed!!
...	...	...
7/8/2020 6:31 PM	ANDRE	Everything complete!

Based on my training and experience, and investigation to date, I believe these messages demonstrate that ANDRE and Lavanture worked together to submit the fraudulent PPP loan application for Project Youth. The excerpted conversation starts out on July 7 at approximately 6:28 a.m., with Lavanture referring to Project Youth, and ANDRE asking “How much are you aiming for?” Lavanture responds “The sky. 1.5,” which tracks the PPP loan amount that Project Youth actually applied for and received – \$1,520,772.00.

21. On July 7 at approximately 7:42 a.m., ANDRE wrote, “For 1.5 you have 73 employees” and “Monthly payroll 608,309,” which corresponds to the amount of employees (73) and monthly payroll (\$608,309) that were actually claimed on Project Youth’s loan application. Lavanture responded “On it...” and “Doing it now,” meaning he was inputting the figures provided by ANDRE. ANDRE’s providing these employment and payroll figures to Lavanture, for Lavanture’s own company, demonstrates that these figures were falsified for the purposes of obtaining Lavanture’s desired loan amount of \$1.5 million. ANDRE told Lavanture “I created a

calculator in xl for this shit and it's fucking great lol," which I believe to be a reference to ANDRE's using a calculator in the Microsoft Excel program ("xl") to fabricate employee and payroll figures sufficient to support a loan amount of \$1.5 million. Over the course of July 7 and July 8, ANDRE and Lavanture messaged each other further about completing the Project Youth loan application, with ANDRE saying, on July 8 at approximately 6:31 p.m., "Everything complete!"

22. ANDRE and Lavanture also exchanged messages that demonstrate their knowledge that they were committing fraud. For instance, on July 9, they exchanged the following WhatsApp messages with respect to PPP loan applications that Lavanture was helping two (2) other people prepare:

Date / Approx. Time	Sender	Message
7/9/2020 8:17 AM	Lavanture	So spoke with dude... PPP... Time is slowly creeping... I Have to hold his hands the entire way... What can we do for him... Actually 2 people
7/9/2020 8:21 AM	ANDRE	Do for them in terms of?
7/9/2020 8:34 AM	Lavanture	Are WE going to see them through to the end?
7/9/2020 8:34 AM	ANDRE	If we don't get locked up

23. On September 4, 2020, at approximately 3:50 a.m. and again at approximately 3:53 a.m., Lavanture sent online news story links to ANDRE. The first link was to an article headlined "Local business owner arrested for alleged misuse of Payroll Protection Program funds," and the second link was to an article headlined "San Diego Woman Faked Employees to Scam Small Business Loan: Prosecutors." ANDRE sent the following messages in response:

Date / Approx. Time	Sender	Message
9/4/20 10:19 AM	ANDRE	What's good my brother. Was going to hit you. Been running around

Date / Approx. Time	Sender	Message
9/4/2020 10:30 AM	ANDRE	Also. Lets not send these negative narratives of people getting locked up for this fraud stiff [stuff]. Not how I'm trying to start my day... All these ppl [people] have the same thing in common. The last one seems to attempted to apply for forgiveness with fake employees
9/4/2020 10:31 AM	ANDRE	People are scamming instead of buildan empire. You and I are building to employ ppl [people]. Push come to shuv [shove] flip the money give it back and their 1% last, last, last resort
9/4/2020 10:32 AM	ANDRE	Not the 1zt thing I want to see in the am is all I am saying.

ANDRE responds by telling Lavanture that they are “building to employ ppl [people],” which demonstrates that at the time of this message – and about six (6) weeks after receiving more than \$4 million in PPP loan funds – ANDRE knew that Lavanture was not employing anyone, contrary to what Lavanture and ANDRE represented in the loan applications. ANDRE adds that if “push comes to shuv [shove],” he will just give back the money and pay 1% interest on the loans, as a “last, last, last resort.” (PPP loans do, in fact, have an interest rate of 1% if they are not forgiven.)

24. On September 15, 2020 at approximately 3:49 a.m., ANDRE wrote to Lavanture, “We have 2 follow these cases the nfl guy etc.. find out the out come if reasonable then we need 2 get their lawyer on retainer.” At approximately 7:23 a.m., Lavanture responded with the following: “<https://www.justice.gov/opa/pr/nfl-player-charged-role-24-million-covid-relief-fraud-scheme>.” Lavanture’s message was a link to a U.S. Department of Justice webpage, titled “NFL Player Charged for Role in \$24 Million COVID-Relief Fraud Scheme,” which described a PPP fraud prosecution brought in Miami federal court against an NFL player and others. Based on my training and experience, and investigation to date, I believe that ANDRE was again expressing his belief that he and Lavanture would be prosecuted for their fraudulent PPP applications, and that they should retain the same attorney hired by the NFL player.

25. *ANDRE's receipt of payments for his role in the fraudulent scheme.* For his role in the scheme, ANDRE received at least \$157,578 in fraud proceeds obtained by the Lavanture Entities. These payments came in the form of three (3) checks issued by Lavanture to SMEstyle Realty LLC ("SMEstyle Realty"), an entity that ANDRE registered with the New York Secretary of State on July 3, 2020, weeks before he received the payments.

26. Records from the Lavanture Entities' BoA accounts, into which loan proceeds were deposited, demonstrate that SMEstyle Realty received a total of \$157,578 in loan proceeds from Provident and Project Youth. Specifically, SMEstyle Realty received (1) a check dated July 24, 2020, from Project Youth payable to SMEstyle Realty, for \$40,000 with the memo line "RENT PAYMENT"; (2) a check dated July 29, 2020, from Provident payable to SMEstyle Realty, for \$50,000 with the memo line "Rent"; and (3) a check dated August 13, 2020, from Project Youth payable to SMEstyle Realty, for \$67,578 with the memo line "RENT AUGUST 2020." Each check back bears the signature of ANDRE and was deposited into Capital One bank accounts opened on July 29, 2020 in the name of SMEstyle Realty, for which ANDRE is the only account signatory.

27. ANDRE and Lavanture's WhatsApp messages further confirm that these payments were for ANDRE's role in the fraudulent scheme, and not for "rent." For instance, between July 14 and July 18, they exchanged the following messages with respect to the issue of payment:

Date / Approx. Time	Sender	Message
7/14/2020 11:35 AM	Lavanture	Sending you a bill payment this week. U can huff & puff... But it's coming
7/14/2020 11:35 AM	Lavanture	A bank check is coming for you
7/14/2020 11:43 AM	ANDRE	Awsome!!! Sound good. Preferres cash but I guess
...	...	...
7/16/2020 9:20 PM	Lavanture	Checks are going out.... NOW Smestyle Realty, LLC

Date / Approx. Time	Sender	Message
7/16/2020 9:21 PM	ANDRE	Copy 50k per business!
7/16/2020 9:23 PM	Lavanture	So annoying. I hate this. Going to sleep... Not funny ...
7/16/2020 9:26 PM	ANDRE	Im am not joking at all!
7/16/2020 9:31 PM	Lavanture	U ARE honestly annoying and predictable. Bro, I can't stress every fucking night. 2 steps backwards. U will never be satisfied. I spend same man hours working on your shit but wouldn't charge u.... It is what it is@ this point... Can't live/deal with all that stress u carry... Going to sleep.
7/16/2020 9:35 PM	ANDRE	Not arguing with you. Yo aint do half the hrs I did so dont so do that! I am asking you kindly please dont violate! If Ibwas [I was] predictable you should have know better then to not be realistic about it
...	...	...
7/17/2020 6:23 AM	Lavanture	I tell you what, \$50,000 minus 10% of \$130,000= \$37,000- let's end the stress & emotional distress  \$37,000 agreed
7/17/2020 6:35 AM	ANDRE	Ok I hear and respect that, But from \$50,000 per recent completed contract = \$100,000 - [ 10% of 130,000] would be technically be 87,000....  Can't agree on \$50,000?? I want to end the stress and emotional distress as well? No stress no pressure 
...	...	...
7/17/2020 6:37 AM	Lavanture	Please text back AGREED \$37,000 and let's move forward.
7/17/2020 6:42 AM	ANDRE	What is 10%
7/17/2020 6:43 AM	ANDRE	?
7/17/2020 6:43 AM	ANDRE	Real estate agent fee?
7/17/2020 6:44 AM	ANDRE	Brokers fee?
7/17/2020 6:45 AM	Lavanture	Im doing way way beyond broker's fee... Bro, your texts are now becoming stressful. I don't do stress. WTF
7/17/2020 6:46 AM	ANDRE	Cool. \$40,000 and lets move passed this AGREED  no stress
...	...	...
7/18/2020 5:29 AM	Lavanture	\$40,000 delivery date July 24 BOA

Date / Approx. Time	Sender	Message
7/18/2020 5:30 AM	Lavanture	SMELIFESTYLE Realty LLC

Based on my training and experience, and investigation to date, I believe these messages demonstrate that Lavanture paid ANDRE for his role in the fraud. The excerpted communications began on July 14 at approximately 11:35 a.m. – the day after BoA deposited \$1,354,112.00 into Intrust’s account – with Lavanture telling ANDRE he would be sending a “bill payment” and a “bank check.” ANDRE responds by saying he would prefer cash, which is consistent with the payment being for ANDRE’s role in the fraud, rather than a payment for a legitimate expense such as rent. Two days later, on July 16 at approximately 9:20 p.m., Lavanture tells ANDRE that “Checks are going out.... NOW Smelifestyle Realty, LLC,” and this causes them to argue about how much ANDRE should be paid, with ANDRE demanding “50k per business!” which I believe is a demand for \$50,000 per successful fraudulent loan application. Following an argument about compensation that extends into July 17 and July 18, and which resolves with an agreement for Lavanture to pay \$40,000, Lavanture tells ANDRE “\$40,000 delivery date July 24 BOA” and “SMELIFESTYLE Realty LLC,” referring to a check to be delivered on July 24 to ANDRE, in the amount of \$40,000, issued to SMELifestyle Realty. A \$40,000 check dated July 24 was subsequently deposited on or about July 29, by ANDRE, at Capital One.

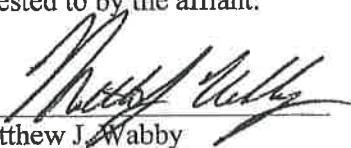
28. *ANDRE’s false statements to law enforcement.* Federal agents encountered and briefly spoke to ANDRE on September 17, 2020, at the New Jersey mansion where Lavanture was arrested. As agents were searching the property, ANDRE drove into the property, parked his car, and told an agent that he was there to visit with “JR,” which I know to be a nickname used by Lavanture. ANDRE identified himself as a musician, and stated that Lavanture was conducting marketing for ANDRE’s music business. ANDRE falsely denied engaging in any financial

transactions with Lavanture, and falsely denied any knowledge about Lavanture applying for loans.

### Conclusion

29. I respectfully submit that this affidavit establishes probable cause for a criminal complaint charging SEAN M. ANDRE with conspiring to commit bank fraud, in violation of 18 U.S.C. §§ 1344, 1349; conspiring to commit wire fraud, in violation of 18 U.S.C. §§ 1343, 1349; and engaging in transfers of wire fraud and bank fraud proceeds of a value greater than \$10,000, in violation of 18 U.S.C. § 1957(a).

Attested to by the affiant:

  
Matthew J. Wabby  
FBI Special Agent

I, the Honorable Christian F. Hummel, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on January 26, 2021 in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

  
Hon. Christian F. Hummel  
United States Magistrate Judge